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SEC

SERVICE DATE – JULY 22, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34527

MAUMEE & WESTERN RAILROAD COMPANY AND RMW VENTURES LLC —
PETITION FOR DECLARATORY ORDER — CSX TRANSPORTATION, INC.
CROSSING RIGHTS AT DEFIANCE, OH

Decided: July 21, 2005

On July 16, 2004, Maumee & Western Railroad Company (M&W) and RMW Ventures LLC (RMW) (collectively, petitioners) filed and served on CSX Transportation, Inc. (CSXT), a petition for a declaratory order. Petitioners requested that a proceeding be instituted to determine whether the construction and operation of CSXT's double track main line where it crossed M&W's main line in Defiance, OH, the subsequent removal of the double diamond crossing at this location by CSXT without the consent of M&W, and the severing of M&W's main line track unreasonably interfere with the common carrier rail service operations of M&W in violation of 49 U.S.C. 10901(d) and M&W's statutory rights and obligations to provide common carrier rail service under its certificate of public convenience and necessity issued by the Board pursuant to 49 U.S.C. 10901(a). Petitioners asked the Board to order CSXT to immediately replace and restore the double diamond crossing, reconnect the main line track of M&W thereto, maintain the crossing, enter into a crossing and interlocking agreement with M&W, and provide reasonable compensation to M&W for the crossing rights. Petitioners also requested that the Board condition CSXT's crossing authority on its compliance with such an order and authorize M&W to remove CSXT track and rail facilities from M&W's right-of-way in the event of noncompliance.

By letter filed on August 6, 2004, petitioners and CSXT stated that they were entering mediation with the Board's Office of Compliance and Enforcement to resolve the crossing dispute. By letter filed on March 14, 2005, petitioners indicated that the mediation was unsuccessful and requested that the Board institute a declaratory order proceeding. By decision served on July 13, 2005, the Board instituted a declaratory order proceeding and established a procedural schedule. According to that schedule, replies are due August 2, 2005, and a rebuttal is due by August 12, 2005.

By letter filed on July 20, 2005, petitioners and CSXT jointly request that the Board modify the procedural schedule. They propose a new schedule, which includes a date of August 30, 2005, for the completion of discovery, and which would establish September 20, 2005, as the reply due date, and September 30, 2005, as the rebuttal due date.

Good cause exists to extend the procedural schedule in order to accommodate discovery in this case. Accordingly, the modifications to the procedural schedule proposed by the petitioners and CSXT will be adopted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Petitioners' and CSXT's joint request to modify the procedural schedule is granted.
2. Discovery is to be completed by August 30, 2005.
3. CSXT's reply is due by September 20, 2005.
4. Petitioners' rebuttal statement is due by September 30, 2005.
5. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary